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## Jamming and the Law of International Communications

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# Jamming and the Law of International Communications

Rochelle B. Price\*

## INTRODUCTION

The Soviet Union began to jam Western radio broadcasts to the Soviet Union in 1948.<sup>1</sup> Jamming<sup>2</sup> has continued to be a problem since then, though not a constant one; over the years, the level of jamming has varied in relation to East-West tensions<sup>3</sup> but more particularly in consonance with internal and external crises.<sup>4</sup> As the post-war international debate concerned with virtually all aspects of modern communications has evolved, jamming has become one focus of the free flow of information—national sovereignty debate. Though seldom completely effective,<sup>5</sup> jamming is a sufficiently large-scale and controversial practice to warrant international attention<sup>6</sup> today, as the resumption of jamming by the Soviet Union in 1980 demonstrates.

The prime targets of Soviet and East European jamming are the three major Western foreign broadcast stations, the BBC's External Broadcasting Services, the Voice of America (VOA), and Radio Free Europe/Radio Liberty (RFE/RL).<sup>7</sup> Unlike the External Broadcasting Services, which are known for their impartial dissemination of world news,<sup>8</sup> the VOA operates as the voice of the executive branch of the United States government.<sup>9</sup> RFE/RL differ in programming and function from the other Western broadcast stations. While the VOA's role is to explain and present United States institutions, culture, and official policy, Radio Free Europe, broadcasting to Eastern Europe and Radio Liberty, broadcasting to the Soviet Union, are strongly news-oriented and devote the bulk of their programming to developments within those countries, especially matters about which local news is often suppressed or distorted.<sup>10</sup>

The international instruments that address the issue lend support both to the Western view that jamming is violative of the principle of freedom of information, a fundamental human right, and to the Eastern view that

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jamming is an appropriate legal response to foreign radio broadcasts transmitted in blatant disregard of principles of national sovereignty. These instruments do not resolve the issue legally because each side can justify its position both in terms of the underlying theoretical debate and with reference to these specific documents. Given the political nature of the issue and the fact that no consensus exists as to the scope and content of the principle of freedom of information, the best that can be hoped for is the continued discussion of the problem in multilateral forums and the nonbinding expressions of principle expressed in documents like the Universal Declaration of Human Rights and the Helsinki Accords.<sup>11</sup>

### JAMMING AND THE DEBATE OVER FREEDOM OF INFORMATION

At present, the policies toward jamming held by the West and the East are straight forward and irreconcilable. For the Western nations, the widest possible dissemination of news is an essential element of the principle of freedom of information.<sup>12</sup> Thus, jamming is to be condemned in almost all circumstances. For the Soviet Union and its satellites, jamming is justified when the content of foreign radio broadcasts threatens national security and morale.<sup>13</sup> Prior to World War II, however, both West and East had agreed that jamming was defensible. Broadcast technology was less sophisticated then and the right of a state, exercising exclusive sovereignty over its territorial air space, to prevent the entry of unwanted radio waves was recognized in all the treaties on international law.<sup>14</sup>

The position of West and East diverged in the post-war world. Theorists and politicians on both sides focused less on the physical trespass of radio waves and more on the ideas themselves which could be transmitted past the borders of any country. The West came to believe that states could not exercise sovereignty over ideas broadcast by radio.<sup>15</sup> The East, however, claimed that states had a duty to jam when these ideas criticized the socialist order or revealed deficiencies that the leaders felt must be concealed.<sup>16</sup> These positions mark the outlines of the debate over freedom of information.

For the West, "freedom of information" means that people should be able to impart their ideas throughout the world and that others should be able to hear them. Although the slogan is new, the principles it stands for are "the more familiar [ones] of freedom of thought, freedom of expression, and freedom of the press."<sup>17</sup> It is regarded by the West as a fundamental human right, consistent with the express concern for such rights articulated by the United Nations.<sup>18</sup> Consequently, it is a right that states may not impair, except within the most narrow limits.<sup>19</sup> In particular,

because the West believes that global peace can be achieved only through open and informed discussion,<sup>20</sup> a state's use of jamming to suppress radio broadcasts violates the principle of freedom of information as the West conceives of it.

As the Soviet Union conceives of freedom of information, it "does not exist in the abstract, but in a particular socioeconomic context."<sup>21</sup> The Soviet constitution guarantees the right to receive and impart information, but in practice only if it promotes the development of socialism.<sup>22</sup> Accordingly, the Soviet state has the right and the duty to protect its people from subversive news and opinions, a form of aggression, by jamming foreign radio broadcasts, if necessary.<sup>23</sup> Freedom of information may be a human right, but the implementation of that right is the responsibility of each nation.<sup>24</sup> Thus the current Soviet view recalls the position taken in the classic treatises, because freedom of information, even considered as focusing on ideas and not radio waves, must give way to the prerogatives of national sovereignty.

In practice, the Soviet Union and its East European allies condemn freedom of information as a principle used to "provide theoretical justification for an ideological offensive by American capitalism. . . , to support the 'right' to impose bourgeois ideology and the American way of life on peoples in other countries."<sup>25</sup> In addition, they criticize the Western broadcast stations for seeking to gain "absolute predominance in the matter of shaping world opinion."<sup>26</sup> Consistent with these theories, they continue to jam Western stations. The West, in turn, continues to broadcast and to denounce the jamming as insidious. Both sides have reiterated their positions at the negotiating tables as well.

## INTERNATIONAL INSTRUMENTS ON FREEDOM OF INFORMATION AND JAMMING

In the international instruments concluded on the subject since World War II, it has been easier for nations to promulgate broad statements about freedom of information than to agree upon the specific application of that right to radio broadcasting and jamming. The continued participation of the Communist countries in the multilateral discussions of freedom of information has been a small achievement in itself toward the goal of international understanding. Yet the Communist stance on the issues still has little in common with that of the West.<sup>27</sup> Furthermore, in those instruments to which both the Eastern and Western nations are signatories, the pertinent language is often so diluted or ambiguous that both sides can find support for their conflicting substantive interpretations. Thus the status of

these instruments as evidence of international law is highly uncertain, and in any event they are incapable of being enforced.

### **The International Telecommunications Conventions**

Jamming is prohibited explicitly by the International Telecommunications (ITC's), highly technical UN documents which govern the apportionment and use of the world's radio frequency spectrum.<sup>28</sup> Every ITC since 1947 has contained a provision to the effect that "all [radio] stations, whatever their purpose, must be established and operated in such a manner so as not to result in harmful interference to the radio services of other members."<sup>29</sup> The Soviet Union is a signatory to these conventions and is, theoretically, bound by their provisions. The supervising UN agency, however, is limited to a role of mediation, of conciliation, and purely technical accommodation, and it must be invited even to assume this role by the parties to the dispute. Moreover, its recommendations may be rejected summarily by either party without penalty.<sup>30</sup> Thus it is powerless to resolve disputes motivated by conflicting ideologies.

### **The Universal Declaration of Human Rights**

The earliest instrument on freedom of information drafted under the auspices of the United Nations was the 1948 Universal Declaration on Human Rights.<sup>31</sup> Article 19 of the Universal Declaration provides that all people have the right to "seek, receive, and impart information and ideas through any media without regard to frontiers."<sup>32</sup> It is a statement of the principle of freedom of information in the broadest possible language and no guidance is provided as to scope or implementation. In addition, the strength of Article 19 is limited by Article 29:

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the general welfare in a democratic society.<sup>33</sup>

Just as the language of the Universal Declaration is ambiguous, so too is its status as a matter of international law. At the time of its adoption, it was proclaimed as "a common standard of achievement for all peoples and all nations,"<sup>34</sup> but that standard was not intended to be more than hortatory, and even so, the Communist nations did not formally endorse it until 1975 at the Conference on Security and Cooperation in Europe.<sup>35</sup> Nevertheless, subsequent international documents have claimed that the

Universal Declaration articulated fundamental principles of humanity which have since become embodied in the customary practice of nations.<sup>36</sup> However, to assert that the Universal Declaration of Human Rights constitutes an obligation for members of the international community is one thing; the actual practice of states and their *de facto* recognition of the norms expressed in it is quite another.<sup>37</sup>

### The 1950 UN Resolution on Jamming

Three UN Resolutions in 1950 set forth additional statements of the principle of freedom of information, but this time as specifically applied to the issue of jamming. In May, 1950, the Economic and Social Council Subcommission on Freedom of Information and of the Press adopted a resolution condemning deliberate interference by the Soviet Union "with the reception of certain radio signals originating beyond [its] territory" as "a violation of the accepted principles of freedom of information," and "as a denial of the right of all persons to be fully informed concerning news, opinions and ideas regardless of frontiers." The Subcommission requested the Economic and Social Council to transmit this resolution to the General Assembly with a recommendation that it call upon all member governments to refrain from such interference.<sup>38</sup> In August, the ECOSOC proposed a draft resolution that referred to jamming expressly only in its preamble. Although it recognized freedom of information and of the press as a fundamental human right, it would merely have had the General Assembly recommend to all member states that, "when they are compelled to declare a state of emergency, measures to limit freedom of information and of the Press shall be taken only in the most exceptional circumstances and then only to the extent strictly required by the situation."<sup>39</sup> Finally, in December, the General Assembly adopted Resolution 424,<sup>40</sup> which, further weakening the May and August versions, condemned the intentional interference with radio reception by "some countries" as a violation of freedom of information. Furthermore, the resolution invited

all governments to refrain from radio broadcasts that would mean unfair attacks or slanders against other peoples anywhere and in so doing to conform strictly to an ethical conduct in the interest of world peace by reporting facts truly and objectively; [and] to give every possible facility so that their peoples may know objectively the activities of the United Nations in promoting peace and, in particular, to facilitate the reception and transmission of the United Nations official broadcasts.<sup>41</sup>

These resolutions primarily reflected the Western concept of freedom of information; the Soviet Union either abstained or voted against all three.<sup>42</sup>

The resolutions cited as precedent for their position both the International Telecommunications Conventions and the Universal Declaration of Human Rights, and like those documents, they can be considered as non-binding declarations of general principle.<sup>43</sup> Since the Soviet Union has continued to jam foreign broadcasts, however, nations cannot claim that the articulation in these resolutions of a Western view of freedom of information which would prohibit jamming has since become part of customary international law.

### **The Draft Convention on Freedom of Information**

At approximately the same time that the 1950 resolutions applied the principle of freedom of information retroactively, condemning past Soviet jamming, the UN General Assembly was also seeking to implement the principle on a broad, prospective basis. A Draft Convention on Freedom of Information was drawn up initially at an ECOSOC conference in 1948, and then studied and modified for ten years until it was partially adopted by an ad hoc UN Committee.<sup>44</sup> Article 1 of the Draft Convention expressed the principle of freedom of information as a right which each contracting state must secure to its nationals and to the nations of other states lawfully within its borders.<sup>45</sup> Article 2, however, limited the exercise of that right in detail:

1. The exercise of the freedoms referred to in Article 1 carries with it duties and responsibilities. It may, however, be subject only to such necessary restrictions as are clearly defined by law and applied in accordance with the law in respect of: national security and public order (*ordre public*); systematic dissemination of false reports harmful to friendly relations among nations and of expressions inciting to war or to national, racial, or religious hatred; attacks on founders of religions; incitement to violence and crime; public health and morals; the rights, honor, and reputation of others; and the fair administration of justice.
2. The restrictions specified in the preceding paragraph shall not be deemed to justify the imposition by any state of prior censorship on news, comments, and political opinions and may not be used as grounds for restricting the right to criticize the government.<sup>46</sup>

The Draft Convention remained on the UN agenda from 1962 to 1973, but it was never considered by the General Assembly. Finally, it was dropped from the agenda in the 1973 session.<sup>47</sup>

The Draft Convention was not adopted because it failed affirmatively to define the principle of freedom of information. Instead, in final form it

focused on the rights of governments to impose limitations upon freedom of information.<sup>48</sup> Its restrictive emphasis ran counter to the affirmative assertion of the right articulated, for example, in the Universal Declaration on Human Rights. Yet the specific limits in Article 2 are implicit in the more general restriction on freedom of information contained in Article 29 of the Universal Declaration. It was far easier to reach a consensus in the earlier instrument that such a right existed than to delineate in the later one any practical guidelines for the exercise of the right.

### **The Covenant on Civil and Political Rights**

Article 19 of the 1966 UN Covenant on Civil and Political Rights<sup>49</sup> provides for freedom of information in the same terms as Article 19 of the Universal Declaration, but states that the exercise of the right may be subject to "certain restrictions," including "the protection of national security or of public order or of public health and morals."<sup>50</sup> Article 2 of the Draft Convention on Freedom of Information authorized far more extensive restrictions, but since that document was not adopted, it never attained the precedential value of conventional international law. The Covenant on Civil and Political Rights, however, has. Thus, although Article 19 recognizes the principle of freedom of information, it also provides the Soviet Union with reasonable grounds on which to justify jamming foreign broadcasts.

### **The Helsinki Accords**

The most recent instrument dealing with freedom of information is the product of the Conference on Security and Cooperation in Europe, the Helsinki Accords of 1975. With a view towards improving the circulation of, access to, and exchange of information, the states participating in the Accords agreed to:

facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries. . . [and] to promote the improvement of the dissemination of filmed and broadcast information. . . . The participating states note[d] the expansion of the dissemination of information broadcast by radio, and express[ed] the hope for the continuation of this process, so as to meet the interest of mutual understanding among peoples and aims set forth by this Conference.<sup>51</sup>

The United States had sought to include a provision against jamming, but predictably failed to obtain Soviet consent.<sup>52</sup>



As in the other instruments, both the United States and the Soviet Union can find support for their positions on jamming in the language of the Accords. The West cites the language quoted above as affirming the illegality of jamming.<sup>53</sup> It regards the statement in which the participants noted the expansion of dissemination of information as an approving reference to the decreased jamming by the Eastern bloc which began in 1973 and lasted through 1979.<sup>54</sup> And it infers from the next phrase, expressing hope for the continued expansion of dissemination of information by radio, that the renewed jamming since 1980 violates the principle of freedom of information expressed in the Accords.<sup>55</sup>

The Soviet Union justifies its position by a two step analysis of the Accords. First, the language of the Accords does not require parties to implement the freer flow of information, but merely to facilitate it,<sup>56</sup> and what that means is open to varying interpretation. More important, the Soviet Union claims that jamming is a legal response to broadcasts which violate the spirit and letter of Helsinki themselves—that is, where the broadcast content does not “meet the interest of mutual understanding among peoples and the aims set forth by the Conference.”<sup>57</sup> Thus, the Soviet Union feels it is justified in taking measures to prevent the reception of these broadcasts within its territory.

The Helsinki Accords also suffer from the same problem as the other international instruments in that they are not an international treaty with binding obligations placed on the state parties.<sup>58</sup> The effect of the Accords is a subject of disagreement. It is argued that the Final Act is nothing more than “a statement of principles for the guidance of inter-state relations, a statement of intent. . . . It is in truth a political rather than a legal document.”<sup>59</sup> But, analogies can be made to the Universal Declaration, which, though not a legal instrument, is certainly not devoid of any legal, political, or moral effects.<sup>60</sup> In fact, as discussed above, it has been suggested that some provisions of the Declaration represent customary norms of international law.<sup>61</sup>

The effects of the Accords, particularly in this area, will probably tend to be political and moral.<sup>62</sup> Again, a comparison with the Universal Declaration is suggested. This is not to say that states do not violate the Declaration’s provisions, but a strong political and moral basis is provided for protest and criticism. “When a state commits itself publicly to a formulation of a policy, that formulation cannot be lightly set aside, even when not legally binding.”<sup>63</sup> The problem here is that the Soviet Union does not feel that either the Final Act or general expressions of the principle of freedom of information prohibits jamming, as the renewal of jamming in 1980 emphasizes. Still, the fact that such issues have been discussed in a multilateral forum means that states have had to recognize that these issues are not purely internal matters, and Soviet claims of non-interfer-

ence in domestic affairs are not as powerful in light of their participation in the multilateral discussions.<sup>64</sup>

## CONCLUSION

The East-West discussion of jamming has evolved from consideration of the problem as a purely jurisdictional issue to a question of the scope and content of the principle of freedom of information. But even with this common approach, the East is still jamming Western foreign radio broadcasts and feels that this practice is consistent with generally recognized principles of international law, including the principle of freedom of information, as incorporated into the international instruments discussed above. These instruments contain only non-binding expressions of principle which may, over time, exert a stronger influence on actual state practice. Still, their legal effect has been and is likely to be weakest during the times it is needed most, times of tension or internal political crisis. Insofar as there has been an international condemnation of jamming, its source is moral, not legal.

As long as the Eastern focus is on the content of foreign broadcasts while the West's concern is with the theoretical question of the existence of a right to freedom of information, the jamming question is unlikely to be resolved by legal solutions. When the West talks about ephemeral notions of fundamental rights and freedoms, it is talking past the Soviet Union which is unwilling to focus on the exercise of the right in the abstract, divorced from the impact of the exercise of the right on the people over whom it is sovereign. Without a binding answer to the jamming question or even a consensus on the scope and content of the principle of freedom of information, the practice of jamming will remain a political issue, responsive to the ebb and flow of East-West relations and to the internal crises of the socialist bloc.

## NOTES

<sup>1</sup> Jamming involves the deliberate effort by a state to prevent a potential radio audience from hearing certain broadcasts. The jamming state transmits signals at the same frequency as the broadcast. Interference generated by jamming can be directed at either of the two components which comprise a broadcast signal: the "skywave" or the "groundwave."

Skywave jamming requires powerful transmitters which are located as far from the intended audience as is the broadcaster. The jamming signal is radiated into the ionosphere, which reflects it back to earth across the path of the broadcast skywave. This technique is effective to block out broadcast signals over large areas.

Groundwave jamming requires a cluster of less powerful transmitters located in the

vicinity of the intended audience. The jamming signal is radiated directly at the audience. This technique is effective for blocking out broadcast signals to urban areas.

The Soviet Union utilizes two types of interference. The more common is "noise jamming," which is a buzzing or whirring sound, often interrupted at intervals by identification markers, usually Morse code signals. These markers help the jammers to coordinate their efforts. The less common type is "major jamming," which consists of a distorted voice or music transmitted on the same frequency as the jammed program. See D. ABSHIRE, *INTERNATIONAL BROADCASTING: A NEW DIMENSION OF WESTERN DIPLOMACY* 48-49 (1976); see also Varis, *The Control of Information by Jamming Radio Broadcasts*, 5 *COOPERATION AND CONFLICT* 170 (1970).

<sup>2</sup> VOICE OF AMERICA, *JAMMING* 3 (1980) [hereinafter cited as *JAMMING*].

<sup>3</sup> For purposes of simplicity, this article will analyze jamming from the context of the United States and the Soviet Union, but naturally within each bloc there may be different views.

<sup>4</sup> ABSHIRE, *supra* note 1, at 48. Jamming of the official U.S. broadcast station, Voice of America, began in 1948 when Cold War tensions ran especially high over the West Berlin issue. In 1956, jamming was briefly relaxed during Khrushchev's visit to Great Britain, and only Radio Free Europe/Radio Liberty were jammed. The Hungarian and Suez crises brought renewed jamming, lasting until 1963. Jamming was again stopped by the Soviet Union in 1963 with the entry into force of the Test Ban Treaty, but was resumed within hours of the Soviet invasion of Czechoslovakia in 1968. Diplomatic efforts to stop the jamming proved futile. On the eve of the Conference on Security and Cooperation in Europe, the Soviet Union again ceased jamming most Western broadcasts. Jamming resumed in 1980 with the invasion of Afghanistan and the Polish crisis.

In the past, Soviet allies followed its lead closely. Even today some of them still join the Soviet Union in jamming both the VOA and RFE/RL (e.g., Bulgaria and Poland). But others, such as Czechoslovakia, jam only RFE/RL; the German Democratic Republic and Romania do not jam at all. See *id.*; *JAMMING*, *supra* note 2, at 2-3; M. WHITEMAN, 13 *DIGEST OF INTERNATIONAL LAW* 1033-34 (1967).

<sup>5</sup> Intense jamming can drive away listeners, but even in the areas of greatest interference, some signals do get through both skywave and groundwave jamming. Reception is often better in rural areas. In addition, a phenomenon known as "twilight immunity" in the late afternoon causes skywave jamming to be ineffective. Jamming can also be combated by saturation broadcasting: as many transmitters as possible are coordinated to broadcast at different frequencies. ABSHIRE, *supra* note 1, at 48; see also *JAMMING*, *supra* note 1, at 1.

<sup>6</sup> It is estimated that the Soviet Union spends 250-300 million dollars a year on jamming—six times the cost of its international broadcasts and three times the expense of the original broadcast. This is more than the combined operating budgets of the VOA and RFE/RL. ABSHIRE, *supra* note 1, at 49; Bethel, *Propaganda Warts*, *HARPER'S*, May 1982, at 19-20.

<sup>7</sup> Dornberg, *Voice of America: News is What the Listeners Crave*, *Detroit Free Press*, Aug. 23, 1982, at 15A, col. 1.

<sup>8</sup> D. BROWNE, *INTERNATIONAL BROADCASTING: THE LIMITS OF THE LIMITLESS MEDIUM* 179 (1982). The BBC's External Broadcasting Services have been in operation since the late 1920's. For the first six years, it broadcasted an "Empire service" to English speaking listeners in Great Britain's colonies, protectorates, and commonwealth partner states. The External Services operate under the same Royal Charter and share the same director-general as the BBC. Under the Charter, the External Services are guaranteed full independence. *Id.* at 161; ABSHIRE, *supra* note 1, at 23.

<sup>9</sup> The Voice of America started broadcasting in February, 1948. It is administered by United States Information Agency. The VOA is charged with three tasks: "to serve as a reliable, objective source of news, to present U.S. policy, and to portray American society." ABSHIRE, *supra* note 1, at 27.

<sup>10</sup> *Id.* at 30. RFE/RL's original purpose was quite different. Both stations began broadcasting in the late 40's and early 50's with an emphasis on "rollback" and "liberation," that is turning back the tide of Communism and freeing the peoples trapped behind the Iron Curtain. This emphasis was revised during the 1960s, when polemic gave way to straight news coverage.

Recently, the future of RFE/RL was uncertain; both stations came under strong congressional attack in the early 1970s when it was disclosed that they were not in fact privately funded (the CIA covertly provided 90 percent of RFE's financing and all of RL's). The Congressional Research Service, the U.S. Attorney General and a Special Presidential Commissioner on International Broadcasting each prepared extensive studies which suggested improvements, but uniformly commended the past performance of the stations.

In response, Congress established the Board for International Broadcasting (BIB) to oversee the operations of the stations. *See* Board for International Broadcasting Act of 1973, 22 U.S.C. §§ 2871-78 (1976). Funding is now openly provided by the U.S. government. The BIB makes grants from the appropriated funds to the two stations, which are private, non-profit corporations. The BIB also reviews their mission, assesses the quality and effectiveness of their broadcasts, and reports on whether the grants are used in a manner not inconsistent with broad U.S. foreign policy objectives. The BIB reports to the President and Congress. The Secretary of State provides it with information on U.S. foreign policy (rather than "policy guidance," as is the case with the VOA). *Id.* at 30-35; BROWNE, *supra* note 8, at 142.

<sup>11</sup> *See infra* text accompanying notes 31-37 & 51-64.

<sup>12</sup> *See* Leary, *The Implementation of the Human Rights Provisions of the Helsinki Final Act: A Preliminary Assessment*, in HUMAN RIGHTS, INTERNATIONAL LAW AND THE HELSINKI ACCORD, 140-141 (T. Buerghenthal ed. 1977).

<sup>13</sup> Telephone conversation with the Press Officer, Soviet Embassy in Washington (September 29, 1982).

<sup>14</sup> *See, e.g.*, I D. O'CONNELL, INTERNATIONAL LAW 331 (1965); 1 L. OPPENHEIM, INTERNATIONAL LAW 529 (8th ed. 1955).

<sup>15</sup> *See* Lopez, Report on Freedom of Information, 16 U.N. ESCOR Supp. (No. 12) at 3-4, U.N. Doc. E/2426 (1953); *see also* Leary, *supra* note 12, at 140.

<sup>16</sup> The Soviet position derives not only from socialist rule over the last sixty-five years, but is also in large measure reflective of the historical Russian attitude. Even though Soviet leaders claim to be quite free of the past, Karl Marx once said: "Men make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weighs like a nightmare on the brain of the living." M. SCHWARTZ, THE FOREIGN POLICY OF THE USSR: DOMESTIC FACTORS 79-87 (1975). Some of the character traits which link the Soviet regime to its Tsarist roots are

suspicion and apprehension of foreigners, secretiveness, obsession with espionage, and hypersensitivity to foreign criticism. . . . Very much like its Tsarist predecessors, the Soviet regime is saddled with two basically inconsistent attitudes toward the outside world. While it has, since its inception, felt itself to be a harbinger of a new, progressive, morally superior socio-economic order, the Kremlin leaders have been very much aware of the hollowness of their claims. It is the tension produced by the gap between self-image and reality which lies at the root of its neurotic attitude toward the West.

*Id.*

<sup>17</sup> *See* Lopez, *supra* note 15, at 2.

<sup>18</sup> *See id.* at 6-10.

<sup>19</sup> *See* Leary, *supra* note 12, at 140.

<sup>20</sup> *See* PRESIDENTIAL STUDY COMMISSION ON INTERNATIONAL RADIO BROADCASTING, THE RIGHT TO KNOW 7 (1973).

<sup>21</sup> Leary, *supra* note 12, at 140.

<sup>22</sup> *Id.* at 141; Lopez, *supra* note 15, at 3.

<sup>23</sup> See ABSHIRE, *supra* note 1, at 50; BROWNE, *supra* note 8, at 23; JAMMING, *supra* note 2, at 2. The idea that foreign broadcasts are a form of aggression was expressed by the Polish delegate to the United Nations during the 1959 debate on jamming. He stated that each country has the sovereign right to defend itself against this form of aggression, just as it has the right to prevent opium smuggling, the sale of pornographic literature or the traffic in persons. See L. MARTIN, *INTERNATIONAL PROPAGANDA: ITS LEGAL AND DIPLOMATIC CONTROL* 86 (1958).

<sup>24</sup> See Tedin, *The Development of the Soviet Attitude Toward Implementing Human Rights Under the U.N. Charter*, 5 REVUE DES DROITS DE L'HOMME 399 (1972).

<sup>25</sup> V. Korokeinkov, *What's Behind the "Freedom of Information" Concept*, INT'L AFFAIRS, Feb. 1982, at 105.

<sup>26</sup> V. Goshchin, *Formula of Ideological Expansion*, 9 NEW TIMES 17 (1976).

<sup>27</sup> See Lopez, *supra* note 15, at 4.

<sup>28</sup> See JAMMING, *supra* note 1, at 2. The ITC's are negotiated under the auspices of the International Telecommunications Union, a specialized U.N. agency with a membership of more than 146 members responsible for the development of the law of global communications. The administration, enforcement and interpretation of this body of law is handled by the International Frequency Registration Board (IFRB). See Note, *Radio Propaganda in the Contexts of International Regulation and the Free Flow of Information as a Human Right*, 1 BROOKLYN J. INT'L L. 139, 159-60 (1979).

<sup>29</sup> JAMMING, *supra* note 2, at 2; see MARTIN, *supra* note 23, at 86; 13 WHITEMAN, *supra* note 4, at 1030-31.

<sup>30</sup> See Note, *supra* note 28, at 163.

<sup>31</sup> See L. HENKIN, R. PUGH, O. SCHACHTER & H. SMIT, *INTERNATIONAL LAW: CASES AND MATERIALS* 808 (1980) [hereinafter cited as *INTERNATIONAL LAW CASEBOOK*].

<sup>32</sup> G.A. Res. 217, 3 U.N. GAOR 74, U.N. Doc. A/810 (1948); see also ABSHIRE, *supra* note 1, at 50; BROWNE, *supra* note 8, at 24.

<sup>33</sup> G.A. Res. 217, *supra* note 32.

<sup>34</sup> Report on the Developments in the Field of Freedom of Information Since 1954, 31 U.N. ESCOR (Provisional Agenda Item 10) at 10, U.N. Doc. E/3443 (1961).

<sup>35</sup> See *INTERNATIONAL LAW CASEBOOK*, *supra* note 31, at 808.

<sup>36</sup> See, e.g., R. LILICH & F. NEWMAN, *INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW AND POLICY* 65-66 (1979).

<sup>37</sup> *Id.*

<sup>38</sup> See 13 WHITEMAN, *supra* note 4, at 1037-38.

<sup>39</sup> *Id.* at 1038-39.

<sup>40</sup> The Resolution was passed by a vote of 49-5. See MARTIN, *supra* note 24, at 86.

<sup>41</sup> G.A. Res. 424, 5 U.N. GAOR Supp. (No. 20) at 44, U.N. Doc. A/1775 (1950).

<sup>42</sup> MARTIN, *supra* note 23, at 87.

<sup>43</sup> See U.N. CHARTER arts. 10-15, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153 (1945). The United Nations General Assembly does not have the power to issue legally binding decisions. Instead it can make recommendations, initiate studies or adopt resolutions. Resolutions addressed to various member states have no direct legislative effect and sanctions cannot be imposed if resolutions are ignored. See also D. BOWETT, *THE LAW OF INTERNATIONAL INSTITUTIONS* 46 (1982).

<sup>44</sup> See G.A. Res. 59(1), U.N. Doc. A/64 (1946). The three conventions were: Convention on Freedom of Information; Convention on the Gathering and International Transmission of News; and Convention on the International Right of Correction. See 13 WHITEMAN, *supra* note 4, at 403-04; see also, M. Robinson, *A Legislative History of the U.N. Freedom of Information Convention* (undated manuscript) (stating that the product of the Convention on Freedom

of Information was rewritten by the Third Committee of the General Assembly, an ad hoc committee and ECOSOC; articles 1 and 2 were finally adopted by the Third Committee in 1959 and 1960).

45 See 13 WHITEMAN, *supra* note 4, at 910.

46 *Id.* at 910-11.

47 See Robinson, *supra* note 44, at 64.

48 See *id.* at 3.

49 G.A. Res. 2200, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966). Drafted in 1966, the Covenant entered into force on March 23, 1976, three months after the deposit of the 35th instrument of ratification. The Covenant contains some enforcement mechanisms: the Human Rights Committee established by the Covenant can investigate complaints of violations brought by states which recognize the competence of the Committee—but only when the object of the complaint agrees on the Committee's competence. Furthermore, no sanctions are applied if the dispute is not resolved. The United States cannot invoke either the provisions of the Covenant which list the guaranteed freedoms or the dispute-settlement mechanisms because it is not a party to the Covenant. See INTERNATIONAL LAW CASEBOOK, *supra* note 31, at 809.

50 See BROWNE, *supra* note 8, at 24.

51 CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE FINAL ACT (August 1, 1975), reprinted in 14 I.L.M. 1292, 1315 (1975).

52 See SCRIVNER, *The Conference on Security and Co-operation in Europe: Implications for Soviet-American Detente*, 6 DENVER J. INT'L L. 122, 136 (1976).

53 See Note, *supra* note 28, at 169.

54 See ABSHIRE, *supra* note 1, at 11.

55 See *id.*

56 Conversation with Soviet Embassy Press Officer, *supra* note 13.

57 Note, *supra* note 28, at 168; see also Leary, *supra* note 12, at 140 (the very existence of the foreign broadcast stations, particularly RFE/RL, is claimed to be a violation of the Helsinki Accords because of their alleged propaganda broadcasts).

58 See Note, *supra* note 28, at 169.

59 Commentary, *The Helsinki Accords*, 18 INT'L COMMISSION OF JURISTS REV. 15 (1977).

60 See SCRIVNER, *supra* note 52, at 144.

61 See *id.* at 145.

62 *Id.*

63 *Id.* at 146.

64 *Id.* at 146-47.

